IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

OP.No. 21828 of 1999(W)

PETITIONER:

A.P. ANTHONY,
SERVICE NO. 710575005,
S/O. LATE A.D. PAUL,
ATHIYUNTHAL HOUSE,
P.O. AYYANTHOLE, THRISSUR,
PRESENTLY RESIDING AT:
N.G.O. QUARTERS, RHE.10,
CIVIL LINES, AYYANTHOLE,
THRISSUR - 3.

BY ADV. SRI.M.P.KRISHNAN NAIR.

RESPONDENTS:
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1. **DIRECTOR GENERAL OF POLICE (CRPF),**
   OFFICE OF THE DIRECTOR GENERAL OF POLICE,
   CRPF, RK PURAM, NEW DELHI.

2. **DEPUTY DIRECTOR (ADMN.),**
   DIRECTORATE GENERAL OF CRPF,
   R.K. PURAM, NEW DELHI.

3. **INSPECTOR GENERAL OF POLICE,**
   CRPF, HYDERABAD.

4. **THE COMMANDANT,**
   GROUP CENTRE, CENTRAL RESERVE POLICE FORCE,
   KANIYAMPURAM, P.O. PALLIPURAM,
   THIRUVANANTHAPURAM.

O.P. NO. 21828/1999:

5. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

BY ADV. SRI.P.S.SREEDHARAN PILLAI, SCGSC
GOVERNMENT PLEADER
SRI.JOHN VARGHESE, ASG,
SRI.P.PARAMESWARAN NAIR,ASG.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 36016/1999 IN O.P. NO. 21828/1999

DISMISSED

05/06/2007. **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER NO. P.III-4/78-GC (PPM) DTD. 22124-JUL6-1978 ISSUED BY THE COMMANDANT, GROUP CENTRE, CRPF, PALLIPUAM, THIRUVANANTHAPURAM.

EXT.P.2: COPY OF THE LETTER N. D-V-1/79 DTD. 21ST JULY, 1979 ISSUED BY THE COMMANDANT GC CRPF, PALLIPPURAM, THIRUVANANTHAPURAM.

EXT.P.2.A: COPY OF THE LETTER NO. D-V-1/79 DTD. 28TH SPTEMBER, 1979 ISSUED BY THE COMMANDANT G.C.ERPF PALLIPPURAM, TRIVANDRUM.

EXT.P.3: COPY OF THE DISCHARGE CERTIFICATE SUBMITTED BY THE PETITIONER.

EXT.P.4: COPY OF THE LETTER DTD. 31/05/1980 (WRITTEN IN HINDI) ISSUED BY THE PETITIONER.

EXT.P.4.A: COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P.4.

EXT.P.5: COPY OF THE CERTIFICATE DTD. 08/05/80 ISSUED BY DR. G. VASUDEVA IYER,MBBS, MD., DM (NEUROLOGY,) NEURO-PHYSICIAN, MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM.

EXT.P.6: COPY OF THE REPRESENTATION DTD. 12/06/80 SUBMITTED BY THE PETITIONR TO THE HOME MINISTER.

EXT.P.7: COPY OF THE LETTER NO. W.V.I/82-ADM.II (SEL) F.B.IV DTD. 30TH JUNE, 1983 ISSUED BY THE JOINT SECRETARY TO THE GOVT. OF INDIA.

EXT.P.8: COPY OF THE ORDER NO. CWF-1/89 GC-PPM DTD. 03/06/1989 ISSUED BY THE ADDITIONAL DIGP, GC, CRPF, PALLIPPURAM, THIRUVANANTHAPURAM.

O.P. NO. 21828/1999:

EXT.P.9: CP, CERTIFICATE ISSUED BY ADDL. DIGP, GROUP CENRE, CRPF, PDA PALLIPPURAM, THIRUVANANTHAPURAM.

EXT.P.10: COPY OF THE REPRESENTATION DTD. 08/08/1999 ISSUED BY THE PETITIONER TO HE RESPONDENTS.

//TRUE COPY//

prv.

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.21828 of 1999-W

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Dated this the 5th day of June, 2007.

JUDGMENT

The petitioner enrolled in the Central Reserve Police Force on 29-6-1971 was boarded out following assessment by the Medical Board, with effect from 5-12-1978. His discharge certificate was sent to him along with Ext.P2 dated 21st July, 1979.

2. It is pleaded in paragraph 6 of the writ petition that in January, 1982, the petitioner joined the Medical College Hospital, Thrissur as part-time Sweeper and as part-time Attendant Grade II in 1984, later, as a full-time Attendant Grade II and later on as a Nursing Assistant in District Hospital, Thrissur. He challenges the action taken by the CRPF authorities to board him out as medically unfit. This writ petition is filed only in the year 1999.

3. The prime contention is that the reason for boarding out the petitioner from CRPF being Epilepsy, it has to be attributed to his service for CRPF and is attributable to such service. According to the petitioner, it is not a constitutional problem since it was not noticed at the time of his selection and recruitment.

4. While it may be obligatory for the recruiting authorities to ensure a thorough check-up of the candidates, it cannot be taken as a principle of law that those constitutional defects which escaped such scrutiny cannot be put against the cadet for boarding him out, particularly because of the fact that he was medically unfit. The certificate obtained by the petitioner from the Doctor of the Medical College and Hospital, Trivandrum also shows that he had cerebral seizures, though it is controllable by ensuring that the petitioner does not work as a driver or any other work which does not involve moving machinery or proximity to fire etc.

5. In the aforesaid circumstances, I do not find any irregularity in the action taken against the petitioner. At this

distance of time, that too, on a writ petition filed more than a decade, for boarding him out, it would be improper to sit in judgment on the reasons for the boarding out of the petitioner.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner will be entitled to continuity of service for the purpose of pension and other benefits from the State service. This is not a matter to be decided in this writ petition and hence, such questions are left open.

In the result, subject to what is stated above, in the penultimate paragraph, this writ petition is dismissed.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.21828 of 1999-W

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JUDGMENT

Dated: 5th June, 2007.